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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,320	09/06/2000	Douglas G. Delany		9073

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IBM CORPORATION
IP LAW DEPT, ED02-905
15450 SW KOLL PARKWAY
BEAVERTON, OR 97006-6063

EXAMINER

SHIH, SALLY

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action	Application No. 09/656,320	Applicant(s) DELANY ET AL.	
	Examiner Sally Shih	Art Unit 3624	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-17.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: (1) For Claims 1, 3-6 and 12-15, Applicant argued that the applicant's invention "specifically include a weight score to a webserver function and accounting for the number of times the webserver function is accessed". Kilkki et al. specifically teach the use of weighted feature as discussed in the second paragraph of page 3 of paper 3 of the Final Rejection.

Applicant then argued that it was not obvious to combine the two references cited, Zhang et al and Kilkki et al. because Zhang et al. did not provide a motivation for the modification. In addition of being specifically taught in a reference, a person of ordinary skill in the art can also provide such motivational statement. A motivation is not always required to be provide by a reference. An Examiner is considered a person of ordinary skill in the art.

(2) For Claims 2, 7-11, 16-17 Applicant argued that Zhang et al. based its factor on duration, not function. To the contrary, Zhang et al. teach a method and apparatus for providing computer network access point the capability of multiple-level accounting. The apparatus provides for "accounting start and stop requests based on various events that needed to be accounted" (Please see at least abstract). These "various events" are defined as functions. Accordingly, Zhang et al. teach duration and function.



HANI M. KAZIMI
PRIMARY EXAMINER